761551N25A - SH-AD-32A

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: October 25, 2013
FILE NO:

OFFICE CORRESPONDENCE

FROM: BOBBY D. DENHAM, COMMANDER
NORTH PATROL DIVISION

TO: ALICIA E. AULT, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	SH2304436
Incident:	Hit Shooting
Incident Date:	January 5, 2012
Unit:	Lakewood Station
Suspect:	Paul Acosta, MH/07-13-83
Involved Employee:	Deputy Michael Mabee, #[redacted]
EFRC Date:	October 24, 2013

The Executive Force Review Committee (EFRC) consisting of Commanders Bobby Denham, Stephen Johnson, and Ralph Webb met and reviewed the above case.

FORCE POLICY RELATING TO INCIDENT:

Law Enforcement officers may use deadly force in self-defense or in the defense of others only when they reasonably believe death or serious physical injury is about to be inflicted upon themselves or others.

FINDINGS:

Suspect Acosta and a second suspect robbed a bank at gunpoint in Orange County, then fled in a vehicle. Several Orange County police departments pursued the suspects while utilizing a helicopter and an Anaheim Police Department K-9 unit, into Lakewood Station's area of responsibility.

Deputies were flagged down by a lone Anaheim Police Department K-9 officer who alerted them to the residence at [redacted] Century Boulevard as possibly the location of one or both of the robbery suspects. The officer told them the suspects were reportedly armed with a firearm.

A plan was enacted among the deputies and K-9 officer to contact the home owner, regarding a search of the rear yard after a search of the front yard was done. While still in the front yard of the home, deputies and the Anaheim Police Department K-9 officer, who had already made K-9 search announcements, searched the immediate area of a carport in the front driveway. The carport was next to the side yard of the home. One of the deputies saw Suspect Acosta when he looked between the wood slats of a low fence between the front and side yards of the home.

The deputy ordered Suspect Acosta to surrender. Suspect Acosta quickly stood up and turned toward the deputy while pointing a replica pistol at him. Fearing he or his partners were about to be shot, the deputy fired four rounds from his duty weapon striking Suspect Acosta.

At the time the deputy located Suspect Acosta, the Anaheim Police Department K-9 Officer released his dog since he saw Suspect Acosta point his pistol at the deputy. Suspect Acosta fell to the ground after being shot and, at the same time, the police dog bit Suspect Acosta on the buttocks and left arm.

Suspect Acosta was taken to the hospital for medical treatment and arrested for robbery and assault. He admitted to the crimes in Orange County and to pointing the pistol at deputies because he wanted to be shot (suicide by cop).

The EFRC determined the force used against the suspect was within Department policy. The EFRC also determined the tactics used were within Department policy.

RECOMMENDATIONS:

The EFRC recommended the unit commander, Captain Merrill E. Ladenheim, conduct a tactical debriefing with all involved personnel regarding the unique circumstances of this incident. The debriefing is to include the issue of communication and working with multiple police agencies during a critical incident.

BDD:JER:jer

761551N25A - SH-AD-32A

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
A Tradition of Service

DATE: October 25, 2013
FILE NO:

OFFICE CORRESPONDENCE

FROM: BOBBY D. DENHAM, COMMANDER
NORTH PATROL DIVISION

TO: MERRILL E. LADENHEIM, CAPTAIN
LAKEWOOD STATION

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	SH2304436
Incident:	Hit Shooting
Incident Date:	January 5, 2012
Unit:	Lakewood Station
Suspect:	Paul Acosta, MH/07-13-83
Involved Employee:	Deputy Michael Mabee, #[redacted]
EFRC Date:	October 24, 2013

The Executive Force Review Committee (EFRC) consisting of Commanders Bobby Denham, Stephen Johnson, and Ralph Webb met and reviewed the above case.

FORCE POLICY RELATING TO INCIDENT:

Law Enforcement officers may use deadly force in self-defense or in the defense of others only when they reasonably believe death or serious physical injury is about to be inflicted upon themselves or others.

FINDINGS:

Suspect Acosta and a second suspect robbed a bank at gunpoint in Orange County, then fled in a vehicle. Several Orange County police departments pursued the suspects while utilizing a helicopter and an Anaheim Police Department K-9 unit, into Lakewood Station's area of responsibility.

Deputies were flagged down by a lone Anaheim Police Department K-9 officer who alerted them to the residence at [redacted] Century Boulevard as possibly the location of one or both of the robbery suspects. The officer told them the suspects were reportedly armed with a firearm.

A plan was enacted among the deputies and K-9 officer to contact the home owner regarding a search of the rear yard after a search of the front yard was done. While still in the front yard of the home, deputies and the Anaheim Police Department K-9 officer, who had already made K-9 search announcements, searched the immediate area of a carport in the front driveway. The carport was next to the side yard of the home. One of the deputies saw Suspect Acosta when he looked between the wood slats of a low fence between the front and side yards of the home.

The deputy ordered Suspect Acosta to surrender. Suspect Acosta quickly stood up and turned toward the deputy while pointing a replica pistol at him. Fearing he or his partners were about to be shot, the deputy fired four rounds from his duty weapon striking Suspect Acosta.

At the time the deputy located Suspect Acosta, the Anaheim Police Department K-9 Officer released his dog since he saw Suspect Acosta point his pistol at the deputy. Suspect Acosta fell to the ground after being shot and, at the same time, the police dog bit Suspect Acosta on the buttocks and left arm.

Suspect Acosta was taken to the hospital for medical treatment and arrested for robbery and assault. He admitted to the crimes in Orange County and to pointing the pistol at deputies because he wanted to be shot (suicide by cop).

The EFRC determined the force used against the suspect was within Department policy. The EFRC also determined the tactics used were within Department policy.

RECOMMENDATIONS:

The EFRC recommended the unit commander, Captain Merrill E. Ladenheim, conduct a tactical debriefing with all involved personnel regarding the unique circumstances of this incident. The debriefing is to include the issue of communication and working with multiple police agencies during a critical incident.

BDD:JER:jer

Table of Contents

IAB # SH2304436

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.?	Hit?
January 5, 2012	Lakewood/Paramount	[ ]	[x]

Incident Information

URN: 012-00273-1365-055		Date: January 5, 2012	Time: 1447 hours
City or Station: Paramount		Nature of Incident: (See Investigative Summary)	
Location: [redacted] Century Bl. Paramount			

Location Type (check one or more):
- [x] Backyard
- [ ] Beach
- [ ] Business
- [ ] Freeway
- [ ] Industrial
- [ ] Park
- [ ] Parking Lot
- [ ] Residence
- [ ] Rural
- [ ] School
- [ ] Street
- Other:

Lighting (check only one):
- [ ] Darkness
- [x] Daylight
- [ ] Other
- [ ] Street Lights

Weather (circle only one):
- [x] Clear
- [ ] Cloudy
- [ ] Fog
- [ ] Rain

Distance: 5'

Incident Type (check one or more):
- [ ] Accidental
- [x] Armed Person
- [ ] Fleeing Suspect
- [ ] Foot Pursuit
- [ ] Gun Take Away
- [ ] Moving Vehicle
- [ ] Sniper/Ambush
- [ ] Startle
- [ ] Struggle Involved
- [ ] Traffic Stop
- [ ] Unarmed Person
- [ ] Unintentional
- [ ] Vehicle Pursuit
- [ ] Warrant Service
- [ ] Warning Shot
- Other:

Initiated by (check only one):
- [ ] Arrest Warrant
- [ ] Call
- [ ] Observation
- [ ] One Person Unit
- [x] Other
- [ ] Search Warrant
- [ ] Two Person Unit

Prior Activity (check only one):
- [ ] Detective
- [ ] Inmate Transport
- [ ] Other
- [x] Routine Patrol

Total # of Shots Fired by Deputy: 4

Total # of Shots Fired by Suspect: 0

Aero Unit? [x] Canine Unit? [x]

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (check only one)	ShiftType (check only one)
[redacted]	Vargas	Cynthia		[ ] EM [x] PM [ ] Day	[x] Regular [ ] Overtime [ ] Off Duty
[redacted]	Guerra	Jamie		[ ] EM [x] PM [ ] Day	[x] Regular [ ] Overtime [ ] Off Duty
[redacted]	Landeros	Ceasar		[ ] EM [x] PM [ ] Day	[x] Regular [ ] Overtime [ ] Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.			
[redacted]	[redacted]				
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**	
Anaheim Police Department K-9	Anaheim		(714) 765-1564		
Last Name	**First Name**	**M.I.**			
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**	
Last Name	**First Name**	**M.I.**			
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**	

Supervisors

Employee #	Last Name	First Name	M.I.	(check one or more)
[redacted]	Melikidse	Michael		[x] On Duty [ ] Present during shooting [ ] Witness to shooting [ ] Involved in shooting
				[ ] On Duty [ ] Present during shooting [ ] Witness to shooting [ ] Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	[redacted]	[redacted]	

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Paul	Steven	M.

PSTD Use Only

SH # 2304436

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
01-05-12	1600 hours	10-04-13	

Employee #	Last Name	First Name	M.I.
[redacted]	Denison	Trent	
[redacted]	Smeltzer	Chad	
[redacted]	Ault	Alicia	

Shooting / Force Information

Method
(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury
(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured
(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand
(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(SS) SIG Sauer
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber
(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S	E	FH	ZZ	WW			NN	
E	S	FH	SS	45	Y	Y	GS	CH

Officer Involved Shooting
Involved Employee Information

URN: 012-00273-1365-055

Involved Employee

E 1

Employee # [redacted]	Last Name: Mabee		First Name: Michael		M.I.
Sex: M Race: W	Rank: DSG	Unit Assignment: Lakewood Station	Work Assignment (Unit #, Module, etc.): 136		
ShiftTime (*circle only one*): ☐ EM ☑ PM ☐ Day	ShiftType (*circle only one*): ☑ Regular ☐ Overtime ☐ Off Duty	Intoxication/Drug Usage? ☐	Substance Used:		
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #		Interviewed? ☑
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): ☐ Plain Clothes no Vest ☐ Raid Jacket w/ Vest ☐ Plain Clothes w/ Vest ☐ Uniform no Vest ☐ Raid Jacket no Vest ☑ Uniform w/ Vest	Other Factors:		
Age: [redacted]	Height: 6'0" Weight: 185lbs				
Range Qualification Date: [redacted]		PPC Qualification Date: [redacted]		Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted]	Number of Prior Shootings: [redacted]	Directed Force: [redacted]
Weapons Fired Brand: Sig Sauer P220	Caliber 45	# Shots 4	Weapons Fired Brand:	Caliber	# Shots
Field Training Officer Emp # [redacted]	ast Name [redacted]		First Name [redacted]		M.I.
Field Training Officer Emp # [redacted]	ast Name [redacted]		First Name [redacted]		M.I.

E __

Employee #	Last Name		First Name		M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):		
ShiftTime (*circle only one*): ☐ EM ☐ PM ☐ Day	ShiftType (*circle only one*): ☐ Regular ☐ Overtime ☐ Off Duty	Intoxication/Drug Usage? ☐	Substance Used:		
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #		Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): ☐ Plain Clothes no Vest ☐ Raid Jacket w/ Vest ☐ Plain Clothes w/ Vest ☐ Uniform no Vest ☐ Raid Jacket no Vest ☐ Uniform w/ Vest	Other Factors:		
Age:	Height: Weight:				
Range Qualification Date:		PPC Qualification Date:		Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐	Number of Prior Shootings:	Directed Force: ☐
Weapons Fired Brand:	Caliber	# Shots	Weapons Fired Brand:	Caliber	# Shots
Field Training Officer Emp #	Last Name		First Name		M.I.
Field Training Officer Emp #	Last Name		First Name		M.I.

E __

Employee #	Last Name		First Name		M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):		
ShiftTime (*circle only one*): ☐ EM ☐ PM ☐ Day	ShiftType (*circle only one*): ☐ Regular ☐ Overtime ☐ Off Duty	Intoxication/Drug Usage? ☐	Substance Used:		
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #		Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): ☐ Plain Clothes no Vest ☐ Raid Jacket w/ Vest ☐ Plain Clothes w/ Vest ☐ Uniform no Vest ☐ Raid Jacket no Vest ☐ Uniform w/ Vest	Other Factors:		
Age:	Height: Weight:				
Range Qualification Date:		PPC Qualification Date:		Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐	Number of Prior Shootings:	Directed Force: ☐
Weapons Fired Brand:	Caliber	# Shots	Weapons Fired Brand:	Caliber	# Shots
Field Training Officer Emp #	Last Name		First Name		M.I.
Field Training Officer Emp #	Last Name		First Name		M.I.

See Other Side

Officer Involved Shooting
Suspect Information

Suspect Information

S 1

Last Name: Acosta		First Name: Paul	M.I.
AKA Last Name: "Pauly"		First Name	M.I.
Sex: M Race: Hispanic	Street Address: [redacted]	City [redacted]	State & Zip [redacted]
Work Phone [redacted]	Home Ph[redacted]	Social Secu[redacted]	Driver's Licen[redacted]
Age: 29 D.O.B. 07-13-83	Height: 5'11" Weight: 205lb	FBI # [redacted]	CII # [redacted]
Booking # 3003412	Primary Charge: 211 PC	Secondary Charge: 245(A)(1) PC	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☑	Apprehended? ☑	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make: N/A		Model:	Year:

S

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]

SUPPLEMENTAL EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
Alvarado	Benjamin		LASD Deputy Employee# [redacted]		562-623-3500	
Zamudio	Carmen		LASD Deputy Employee# [redacted]		562-623-3500	
Felger	Jillian		LASD Law Enforcement Technician Employee# [redacted]		562-623-3500	

Investigative Summary

Incident: **Deputy Involved Hit Shooting**
LASD Report: **012-00273-1365-055**
IAB File: **SH2304436**

Opening Statement
On January 5, 2012, Internal Affairs Bureau investigators responded to an incident command post, erected by Lakewood Station personnel. Sergeant Trent Denison, Sergeant Chad Smeltzer and Lieutenant Alicia Ault were briefed regarding the circumstances of a Deputy Involved Shooting. Sergeant Denison was assigned the responsibility for the administrative review of the incident.

Synopsis
On January 5, 2012, Suspect Acosta and a second suspect robbed a bank at gunpoint in Orange County, then fled in a vehicle. Several Orange County police departments pursued the suspects while utilizing a helicopter and an Anaheim PD K-9 unit, into Lakewood Station's area of responsibility. Information regarding the pursuit was broadcast to Bellflower Deputies who responded to assist. Before the deputies left the station, information was received regarding the suspects having crashed their car and were fleeing on foot on a residential street in Bellflower.

Numerous deputies responded to the area surrounding the terminus of the pursuit in order to assist in establishing a containment of the area the suspects were in.

Deputies were flagged down by a lone Anaheim PD K-9 officer who alerted them to the residence at [redacted] Century Boulevard as possibly the location of one or both of the robbery suspects. The officer told them the suspects were reportedly armed with a firearm.

A plan was enacted among the deputies and K-9 officer to contact the home owner regarding a search of the rear yard after a search of the front yard was done. While still in the front yard of the home, Deputy Mabee, three assisting deputies and the Anaheim PD K-9 officer, who had already made K-9 search announcements, searched the immediate area of a carport in the front driveway. The carport was next to the side yard of the home. Deputy Mabee saw Suspect Acosta when he looked between the wood slats of a low fence between the front and side yards of the home.

Deputy Mabee ordered Suspect Acosta to surrender. Suspect Acosta quickly stood up and turned toward Deputy Mabee while pointing a pistol at him. Deputy Mabee feared he was about to be shot, so in order to defend himself, and possibly his partners who were near by, he shot Suspect Acosta.

At the time Deputy Mabee located Suspect Acosta, the Anaheim PD K-9 Officer released his dog since he saw Suspect Acosta point his gun at Deputy Mabee. Suspect Acosta fell to the ground after being shot and, at the same time, the police dog bit Suspect Acosta on the buttocks and left arm.

Suspect Acosta was taken to the hospital for treatment and arrested for robbery and assault.

The shooting incident was investigated by Homicide Bureau detectives and documented in the Homicide Investigation Book **[Exhibit A]**.

This case was presented to the District Attorney's office to review regarding the shooting. The shooting was determined legal and no further action would be taken by the District Attorney. For more information, see the District Attorney Letter of Opinion included in **[Exhibit B]**.

<u>**Involved Personnel**</u>

Deputy Michael Mabee #[redacted]

<u>**Work History**</u>

Date of Employment:	01/2006
Date Assigned to Lakewood Station:	10/2009
Prior Shooting Incident(s):	[redacted]

<u>**Suspects**</u>

Acosta, Paul MH/07-13-83, 5'11", 205lbs.
Criminal History: [redacted]

The second robbery suspect was not within the area of the shooting and avoided capture.

Injuries
No civilians or sworn personnel were injured during this incident.

Suspect Acosta received a gunshot wound to his upper right shoulder/arm area close to his shoulder blade and the bullet lodged in his neck. He also received a dog bite wound/scratch marks to his left arm. He was treated for his injuries at Saint Francis Medical Center.

Physical Evidence
All physical evidence of the shooting such as shell casings and the suspect's weapon, was identified by Homicide detectives and documented in supplemental reports by crime lab personnel. For more information, see the crime lab reports found in the Homicide Investigation Book.

Investigators Observations
IAB investigators observed the crime scene from the front yard of the location. Investigators noticed markers indicating locations of spent shell casings in the yard near the carport area.

Weapon used by Deputy Mabee
Personally owned, Department approved Sig Sauer P220 45 cal. / Department ammunition.

Weapon used by Suspect Acosta
Black color "Gamo" BB gun, model PT-80

Property Damage
The side yard fence and the rear yard fence at the location received bullet impact damage.

Criminal Investigator
Sergeant L. Nunez and Detective R. Tomlin, LASD Homicide.

Lighting and Weather Conditions
This incident took place during daylight hours. The weather was cool and dry.

IAB Interview of Deputy Mabee
Deputy Mabee was interviewed by Homicide Investigators regarding his actions. A summary of their interview may be found on page 48 of the Homicide Investigation Book, Exhibit A. Internal Affairs investigators reviewed the tape recording of the interview and found that Homicide's summary of their interview is an accurate account of what was said. For more information, see the attached verbatim Homicide interview transcription.

Internal Affairs investigators interviewed Deputy Mabee on August 27, 2013. The following is a summary of that interview. For more information and precise wording, see the attached verbatim interview transcription.

Deputy **Michael Mabee** told investigators that he was in briefing at the start of his shift when he heard broadcast on the radio that Orange County police agencies were in pursuit of armed bank robbery suspects heading toward Lakewood.

Deputy Mabee said they were advised not to get involved in the pursuit however, shortly after the initial broadcast, he was advised the suspects had fled on foot in a residential area of Bellflower and he was requested to assist with a containment. Therefore, multiple units left briefing to assist in setting up a containment.

Deputy Mabee said he and his civilian ride along, Jillian Felger, were driving on Century Boulevard and were flagged down by an Anaheim PD K-9 officer at [redacted] Century Boulevard. He said several other Sheriff's Department deputies also stopped to help and they were told one or both of the robbery suspects were possibly in the yard of the house they had stopped at. He said a plan was formed with the K-9 officer to form a skirmish line and approach the house to ask the homeowner if anyone was supposed to be in their back yard. He added that he assisted in clearing/searching the front yard while making the approach.

Deputy Mabee said he, along with Deputy Cynthia Vargas, searched the west side of the front yard and carport area while Anaheim Officer [redacted] was on the east side of the carport. He added that numerous other deputies were in front of and to the east side of the house.

Deputy Mabee said he searched the three trash cans on the front side of the carport and then around the rear of a truck that was parked in the carport. He was at the south side of the carport and noticed a waist high wood fence which delineated the front yard from the side and back yards. He looked through the spaced wood fence slats and saw Suspect Acosta crouched down behind the fence hiding from them. Deputy Mabee yelled for Acosta to show his hands several times. Suspect Acosta said he would give up and quickly stood up from behind the fence and turned sideways to his right. Deputy Mabee said Suspect Acosta, at the same time, raised his right hand up at arms length and pointed a black semi automatic pistol directly at him. He described the suspect's action as though Suspect Acosta was taking up a sight picture in order to shoot him. Deputy Mabee said he had no other option other than to protect his own life and that of his partners. Therefore, he shot four rapid shots at center mass of Suspect Acosta from about ten to fifteen feet away. He then stepped behind the carport wall for cover and conducted a tactical reload and then looked for Suspect Acosta again. He noticed Suspect Acosta was laying on the ground and the Anaheim PD K-9 had a bite hold on Acosta's arm.

Deputy Mabee holstered his weapon and pulled Suspect Acosta's legs to bring his body back to get him away from the gun, which was laying on the ground underneath him. Acosta told them he could not move his arm since he had been shot.

Deputy Mabee said he broadcast his involvement in the shooting immediately after he fired and he knew paramedics were also requested because they arrived shortly after.

Deputy Mabee said the entire incident from when he first saw Suspect Acosta and gave commands to see his hands to the point he fired his weapon was approximately two to three seconds.

Deputy Mabee said there was no cross fire since his assisting partners were behind him and to the east, and Suspect Acosta was directly in front of him.

Witness Anaheim Police K-9 Officer [redacted] said he assisted Brea PD and Placentia PD in a pursuit of armed robbery suspects in a vehicle, which entered into Sheriff's area. He saw the two suspects flee from their parked vehicle on a residential street and noticed both suspects ran north through yards and out of his sight. His Department's Aero unit broadcast to him the suspects location so he drove around the block and onto Century Boulevard (location) where Aero reported they lost sight of the suspects.

Officer [redacted] said he took up a position at the front of the house at [redacted] Century Boulevard to wait for assisting units. He noticed numerous deputies driving toward him and flagged them down and told them one or both suspects may be in the yard of the location. He advised the group of deputies the suspects were armed. They formed a plan to contact the owner of the home to inquire if they were okay and if anyone was supposed to be in the yard. He added they searched the front yard and carport area of the home as they made their approach.

Officer [redacted] said he made a couple of K-9 announcements as they approached the front of the home and he searched under a truck parked in the carport at the west side of the front yard. He said several deputies took up positions at the east side of the home and several deputies searched the west side of the yard and carport. He said as he was on one knee looking under the truck when he heard a deputy yell at the suspect to show his hands. He then noticed Suspect Acosta on the other side of a waist high wood fence on the south side of the carport. He said Suspect Acosta stood up and turned to run toward the rear yard but, at the same time, Acosta turned his upper torso to the right and in the direction of the deputies. Officer [redacted] released his dog to prevent Suspect Acosta from escaping and, as he did so, he heard four to five gunshots. He did not see the deputy fire because he was looking down at the fence to find a way to open it for his dog. He saw Suspect Acosta take a couple of steps and fall to the ground and then his K-9 bit Acosta on the buttocks. He said Suspect Acosta swatted the dog away and his dog then bit Acosta on the left arm.

Officer [redacted] said he and the deputies made a tactical approach with a cover deputy, and orders were given for Suspect Acosta to show his hands. He said Acosta could not move his right hand and said he had been shot, so he and a deputy pulled Acosta's legs to remove him from the area of the gun. He added the gun was found underneath Acosta's body.

Officer [redacted] said he ordered his dog to release once they made their approach. The first time he saw the suspects weapon was when they pulled Acosta back by the legs and he noticed the gun was underneath him. He did not see Acosta point the gun at the deputies because he was looking down at the fence to open it when the shooting took place.

Deputy **Cynthia Vargas** said she responded to the location regarding a containment for robbery suspects that were chased by Orange County police agencies. She drove with her partner, Deputy Carmen Zamudio, to the location and stopped to assist fellow deputies who had been advised by an Anaheim PD officer that one or both suspects may be at the location.

Deputy Vargas went to the west side of the yard by a carport with Deputy Mabee to assist in searching the front of the home for the suspects. She was standing behind Deputy Mabee when she heard him yell at the suspect to show his hands. She saw Suspect Acosta stand up from behind a small fence and point a handgun at Deputy Mabee. Deputy Vargas saw Deputy Mabee fire four to five shots at Suspect Acosta. She heard several gunshots and was not sure if Suspect Acosta had fired first or if Deputy Mabee had.

Deputy Vargas was unable to shoot at Suspect Acosta because she is left handed and Deputy Mabee is right handed. Her position of being behind Deputy Mabee did not allow her to have a clear shot and she feared if she did shoot, she possibly would have struck Deputy Mabee.

Deputy Vargas said she immediately ran to the east side of the home in order to take up a position there should Suspect Acosta run toward the back yard. She then learned Acosta had been shot and taken into custody.

Deputy **Cesar Landeros** said he drove to the location to assist regarding the containment of the area for robbery suspects. Once at the location, he, along with numerous other deputies and an Anaheim PD K-9 unit took up positions in the front yard. He said he was on the east side of the home when he heard someone say "Let me see your hands, let me see your hands!" He then heard several gunshots so he ran toward the driveway and saw a K-9 biting the suspect who was laying on the ground.

Deputy **Jaime Guerra** said he responded to the location to assist in the containment for two robbery suspects and was flagged down by an Anaheim PD K-9 officer. He was approaching the front door of the residence when he heard Deputy Mabee yell for the suspect to show his hands.

Deputy Guerra said he could see from his vantage point, Suspect Acosta appeared as if he was about to run south in the yard then he turned quickly toward Deputy Mabee and pointed a black handgun at him. He heard approximately five gunshots and thought the suspect was shooting at Deputy Mabee. He then ran south along the east side of the home to take up a position in case Suspect Acosta ran in that direction. He was later advised the suspect was in custody.

Deputy **Carmen Zamudio** said she was partnered with Deputy Vargas when they responded to the location to assist in a containment for robbery suspects. When they arrived, Deputy Vargas parked the car and ran to assist other deputies in the front yard on the west side by Deputy Mabee. She said she heard Deputy Mabee yell for the suspect to show his hands and then she saw Suspect Acosta stand up from behind a area on the south side of a truck parked in a carport. She saw Suspect Acosta turn to his right and she heard four gunshots. She did not see the suspect's gun however, because of his movements of turning toward Deputy Mabee, she believed Suspect Acosta had shot first.

Deputy Zamudio said Suspect Acosta went toward the back of the house so she went to the east side of the home. As she did so, she noticed through the fence that Suspect Acosta was on the ground and a dog was on him. She saw deputies pull Suspect Acosta back and she saw a gun on the ground which resembled a .45 cal. handgun.

Deputy **Benjamin Alvarado** said he responded to the location to assist with a containment for two robbery suspects. He said as he went into the front yard of the house, he saw Deputy Mabee and Deputy Vargas on the west side of the yard and more deputies on the east side.

Deputy Alvarado said he heard Deputy Mabee yell for the suspect to "Drop it" and then he heard two gunshots. He realized Deputy Mabee had fired because he saw shell casings flying in the air from where Deputy Mabee was located. He went over to Deputy Mabee to assist and saw a canine biting the suspect's left arm. He said everyone ordered the suspect to give up his hands but the suspect said he couldn't move his arm.

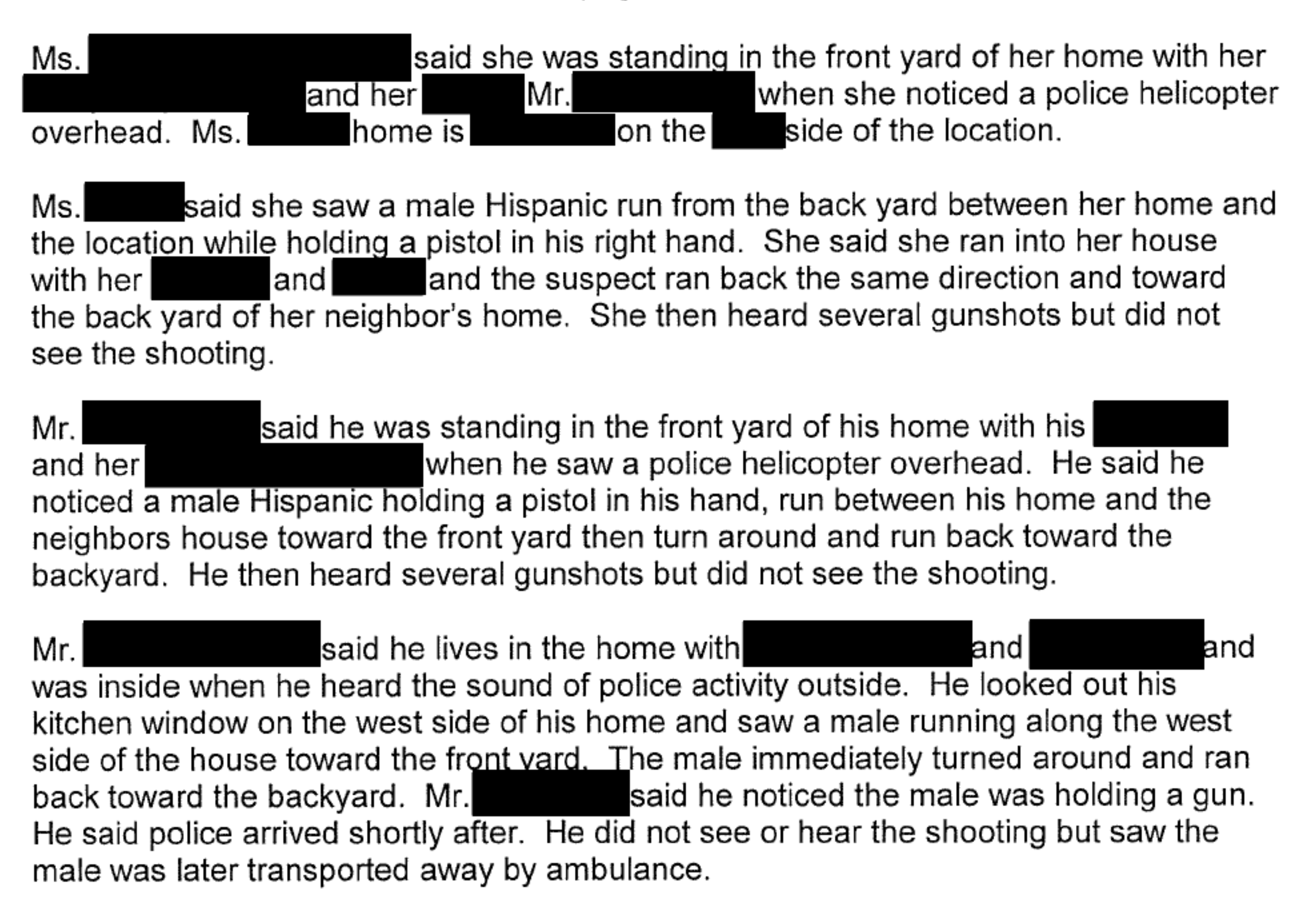
Deputy Alvarado said they approached the suspect and handcuffed him

Law Enforcement Technician (LET) **Jillian Felger** said she was participating in a ride along with Deputy Mabee on the date of this incident. She said they responded to the location regarding a pursuit of robbery suspects and was told to stay in the radio car by Deputy Mabee. She said she watched as Deputy Mabee and Deputy Vargas approached the west side of the home's front yard. She then heard four to five gunshots and someone yelling however, she could not discern what was being said and she did not witness the shooting. Soon, additional deputies arrived and she saw two deputies carrying Suspect Acosta out to the front.

Civilian witness statements

Numerous civilians were contacted regarding this incident. Most did not know anything about the incident and some did not see it occur, but heard gunshots.

The following witnesses saw part of the incident and were interviewed by Homicide detectives. For more information, see pages 30-31 of the Homicide Investigation Book.



Ms. [redacted] said she was standing in the front yard of her home with her [redacted] and her [redacted] Mr. [redacted] when she noticed a police helicopter overhead. Ms. [redacted] home is [redacted] on the [redacted] side of the location.

Ms. [redacted] said she saw a male Hispanic run from the back yard between her home and the location while holding a pistol in his right hand. She said she ran into her house with her [redacted] and [redacted] and the suspect ran back the same direction and toward the back yard of her neighbor's home. She then heard several gunshots but did not see the shooting.

Mr. [redacted] said he was standing in the front yard of his home with his [redacted] and her [redacted] when he saw a police helicopter overhead. He said he noticed a male Hispanic holding a pistol in his hand, run between his home and the neighbors house toward the front yard then turn around and run back toward the backyard. He then heard several gunshots but did not see the shooting.

Mr. [redacted] said he lives in the home with [redacted] and [redacted] and was inside when he heard the sound of police activity outside. He looked out his kitchen window on the west side of his home and saw a male running along the west side of the house toward the front yard. The male immediately turned around and ran back toward the backyard. Mr. [redacted] said he noticed the male was holding a gun. He said police arrived shortly after. He did not see or hear the shooting but saw the male was later transported away by ambulance.

Suspect Statements
Suspect Acosta told Homicide investigators that he and his friend robbed a bank and fled from the police. He said he heard a police dog announcement and was found in the yard of a house by officers and knew he would not be able to get away. Suspect Acosta said he wanted to die so he pointed a pistol at the deputy in order to get shot, but quickly turned so he would not see himself get shot. He said he was shot and then arrested.

At the time of this investigation, Suspect Acosta is awaiting court in Orange County and has been charged with numerous robberies. His court date is pending.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
SHARON J. MATSUMOTO • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

February 19, 2013

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #12-0026
L.A.S.D. URN #012-00273-1365-055

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 5, 2012, non-fatal shooting of Paul Acosta by Los Angeles County Sheriff's Department (LASD) Deputy Michael Mabee. We have determined that Deputy Mabee acted lawfully in self-defense.

The District Attorney Command Center was notified of this shooting at 5:15 p.m., on January 5, 2012. The District Attorney Response Team (DART), consisting of Head Deputy District Attorney Sergio Gonzalez and District Attorney Senior Investigator Sean Robinson, responded to the scene. They were given a briefing of the circumstances surrounding the incident and a "walk-through" of the shooting scene.

The following analysis is based upon reports submitted by LASD Homicide Bureau. The voluntary statement of Deputy Mabee was considered as part of this analysis.

FACTUAL ANALYSIS

On January 5, 2012, shortly after 2:00 p.m., a robbery occurred at the Wells Fargo Bank located at 1111 East Imperial Highway in the City of Placentia in Orange County. Two male suspects committed the robbery by simulating the use of a handgun. The suspects fled in a Dodge Charger. Shortly after the robbery, the suspect vehicle was located and pursued by officers from the Brea and Anaheim Police Departments. During their flight from police, the suspects traveled over 100 miles per hour, made numerous extremely dangerous lane changes and caused a traffic collision.

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
Fax: (213) 620-1208
WEBSITE: http://da.co.la.ca.us

The pursuit eventually entered Los Angeles County where the suspects abandoned the vehicle on Denbo Street in the City of Paramount and fled on foot. LASD deputies responded to the location, set up a perimeter and attempted to locate the suspects.

Deputy Michael Mabee responded to the end of the pursuit and was told by Anaheim Police Officer [redacted] that one of the suspects was possibly hiding in the rear yard of a residence on Century Boulevard. Mabee walked to the northwest side of the residence and saw Acosta crouching behind a pick-up truck. Maybe ordered Acosta to surrender and to "show is hands."

Acosta began to stand up, then suddenly produced what appeared to be a handgun and pointed it at Mabee. Fearing he was about to be shot, Mabee fired his service weapon as Acosta. Acosta fell to the ground and was detained. A black Air Soft "Gamo" pellet gun was recovered from the ground next to Acosta. The pellet gun closely resembled a semiautomatic firearm.

Acosta was transported to St. Francis Hospital where he received medical treatment for a gunshot wound to his torso. Acosta survived his injuries.

Acosta admitted to the Sheriff's Homicide investigators that he had committed the bank robbery to fund his heroin addiction. He stated that when he was confronted by Mabee, he pointed the pellet gun at him because he "wanted to die."

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears that the person claiming the right of self-defense actually and reasonably believed that he, or the person defended, was in imminent danger of great bodily injury or death. Penal Code § 197; People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082; see also, CALCRIM No. 505.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. CALCRIM No. 3470.

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." People v. Collins (1961) 189 Cal.App.2d 575, 589.

CONCLUSION

Deputy Maybe confronted Acosta, a bank robbery suspect, shortly after the end of a dangerous high speed pursuit. Mabee ordered Acosta to show his hands. Instead, Acosta produced a replica handgun and pointed it at Mabee. Given the close resemblance between the replica handgun and an actual semiautomatic firearm, the distance between Acosta and Mabee and the extremely short period of time Mabee had to view the object, it was impossible for Mabee to discern that the object Acosta was pointing was not an actual handgun. Acosta's act of pointing the replica handgun at Maybee reinforced Maybee's belief that the object was a real handgun. Believing that he was about to be shot, Mabee acted to end the apparent deadly threat posed by Acosta. Given the totality of the circumstances, Mabee's belief that he was in imminent peril was reasonable.

We find that LASD Deputy Michael Mabee acted lawfully in self-defense. We are closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

SHANNON PRESBY
Assistant Head Deputy
(213) 974-3888

c: Deputy Michael Mabee, #513428